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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

JIMMY COLSON, an individual;

Plaintiff,

v.

BULOW HOLDINGS, LLC, a Delaware  
limited liability company; and, OSSUR  
AMERICAS, INC., a California corporation;

Defendants.

CASE NO.: 2:22-cv-1950-APG-BNW

**JOINT STATUS REPORT AND  
STIPULATION AND ORDER**

Pursuant to the Court's prior Order [ECF No. 22] dated January 8, 2024, which directed the parties to submit a joint status report by February 2, 2024, Plaintiff Jimmy Colson ("Plaintiff") and Defendants Bulow Holdings, LLC and Ossur Americas, Inc. ("Defendants") (collectively the "Parties"), by and through their undersigned counsel, hereby state the following:

**PROCEDURAL BACKGROUND**

1. On October 20, 2022, Plaintiff commenced this action in the Eighth Judicial District Court for Clark County, Nevada against Defendants.

2. On November 18, 2022, Defendants removed the action to this Court.

3. On November 28, 2022, the Parties filed a Stipulation and [Proposed] Order Extending Time for Defendants to File and Serve Their Answer or Other Response to the Complaint [ECF No. 5], which was adopted and granted by the Court in its subsequent Order [ECF No. 6] of November 29, 2022.

1           4.       On December 8, 2022, the Parties submitted a Stipulation and [Proposed] Order  
2 to Stay All Proceedings [ECF No. 8] pending the scheduling and outcome of a planned mediation  
3 between the Parties.

4           5.       On December 9, 2022, the Court adopted the stipulation and issued its Order to  
5 Stay All Proceedings [ECF No. 9]. In its Order, the Court further directed that the Parties submit  
6 a joint status report within 60 days of the entry of the Order.

7           6.       On February 7, 2023, the Parties submitted a Joint Status Report and Stipulation  
8 and Proposed Order to Continue Stay of All Proceedings [ECF Nos. 10 and 11] based on the  
9 parties' mediation, which was scheduled for March 2, 2023. The Court adopted the stipulation  
10 and order in its Order to Continue Stay of All Proceedings [ECF No. 12] on February 8, 2023,  
11 which further directed that the parties submit a joint status report by March 31, 2023.

12           7.       On March 24, 2023, the Parties submitted a second Joint Status Report and  
13 Stipulation and Proposed Order to Continue Stay of All Proceedings [ECF Nos. 13 and 14] based  
14 on the parties' mediation, which was scheduled for March 2, 2023. The Court adopted the  
15 stipulation and order in its Order to Continue Stay of All Proceedings [ECF No. 15] on February  
16 8, 2023, which further directed that the parties submit a joint status report by June 30, 2023

17           8.       On June 30, 2023, the Parties submitted a third Joint Status Report and Stipulation  
18 and Order to Continue Stay of All Proceedings [ECF Nos. 16 and 17] based on the parties  
19 mediation. The Court adopted the stipulation and order in its Order to Continue Stay of All  
20 Proceedings [ECF No. 18] on July 5, 2023, which further directed that the parties submit a joint  
21 status report by September 29, 2023.

22           9.       The Parties submitted a fourth Joint Status Report and Stipulation and Proposed  
23 Order to Continue Stay of All Proceedings [ECF Nos. 19 and 20] which was adopted by the  
24 Court in its Order to Continue Stay of All Proceedings [ECF No. 21] on October 2, 2023, which  
25 further directed that the parties submit a joint status report by November 28, 2023.

26           10.      On January 8, 2024, during the pendency of the Parties' ongoing discussions  
27 regarding the initiation of private binding arbitration proceedings in this matter, the Court issued  
28 its Order [ECF No. 22] directing the Parties to submit a joint status report by February 2, 2024.

**STATUS OF PENDING ADR EFFORTS**

Since the staying of these proceedings, the Parties attended a mediation on March 2, 2023 at JAMS in Las Vegas before the Honorable Phillip M. Pro (Ret.). During the mediation conference, it was determined by the Parties and Judge Pro that the negotiations would benefit from the informal exchange between the Parties of additional underlying documents. In light of this determination, the parties and Judge Pro agreed to adjourn the mediation pending an exchange of additional documents.

The above-referenced exchange of documents between the Parties has now occurred. Based on the exchange of documents and the Parties' discussions to date, the Parties have reached the good faith conclusion that further mediation efforts at this time would not be fruitful and, therefore, it is understood between the Parties that Plaintiff intends to submit this matter to binding private arbitration.

Since the Parties' submission of their fourth Joint Status Report and Stipulation and Proposed Order to Continue Stay of All Proceedings [ECF Nos. 19 and 20], the Parties have been in discussions as to how best to proceed with arbitration and whether the proceedings before this Court should be stayed or, alternatively, dismissed without prejudice based upon the anticipated submission of this matter to binding private arbitration. It was during the pendency of these discussions that the Parties inadvertently allowed the prior deadline for submitting their status report to pass. However, the Parties have now agreed in the interest of expediting and concluding their ADR effort that this matter should be referred and docketed for binding arbitration by March 1, 2024 and, the Parties have further agreed that, so long as the contemplated private arbitration is initiated on or before that date, the proceedings before this Court should continue to be stayed in the interest of judicial economy pending a final ruling in the arbitration. The Parties further agree that this action shall be dismissed without prejudice in the event that Plaintiff does not file and initiate binding arbitration by March 1, 2024.

**STIPULATION**

IT IS HEREBY STIPULATED AND AGREED, by the parties, through undersigned counsel, pursuant to LR IA 6-1, 6-2, and LR 7-1, and subject to the approval of the Court, that:

1           1.       All proceedings in this action shall continue to be stayed pending a final ruling in  
2 the Parties' anticipated arbitration;

3           2.       In the event Plaintiff does not file and initiate arbitration of the Parties' dispute in  
4 this matter before Friday March 1, 2024, then the Parties shall submit a stipulation and order  
5 for dismissal without prejudice to the Court by Friday March 15, 2024; and

6           3.       The Parties shall file a joint status report by Monday **April 1, 2024**, apprising the  
7 Court as to the pendency of the arbitration proceeding, in the event this action has not otherwise  
8 been dismissed.

9           Dated this 2nd day of February 2024.

10           **IT IS SO AGREED AND STIPULATED.**

11           SPENCER FANE LLP

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and Ossur Americas, Inc.

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20           **IT IS SO ORDERED.**

21             
22           \_\_\_\_\_  
23           DISTRICT COURT JUDGE

24           DATED: February 5, 2024